

APPENDIX.

The laws of the State of North Carolina, referred to in the complaint, are General Statutes of North Carolina, 1943, Chapter 28, Section 173 (formerly Section 160 C. S.); Section 174 (formerly Section 161 C. S.); and Section 149 (formerly Section 137 C. S.), which sections are as follows:

“§28-173. DEATH BY WRONGFUL ACT; RECOVERY NOT ASSETS; DYING DECLARATIONS.—When the death of a person is caused by a wrongful act, neglect or default of another, such as would, if the injured party had lived, have entitled him to an action for damages therefor, the person or corporation that would have been so liable, and his or their executors, administrators, collectors or successors shall be liable to an action for damages, to be brought within one year after such death, by the executor, administrator or collector of the decedent; and this notwithstanding the death, and although the wrongful act, neglect or default, causing the death, amounts in law to a felony. The amount recovered in such action is not liable to be applied as assets, in the payment of debts or legacies, except as to burial expenses of the deceased, but shall be disposed of as provided in this chapter for the distribution of personal property in case of intestacy.”

The laws of the State of New York referred to are as follows:

(a) The death statute of the State of New York, viz, Section 130 of the Decedent's Estate Law, reading as follows:

"SECT. 130. ACTION BY EXECUTOR OR ADMINISTRATOR FOR NEGLIGENCE OR WRONGFUL ACT OR DEFAULT CAUSING DEATH OF DECEDENT.

"The executor or administrator duly appointed in this State, or in any other State, territory or district of the United States, or in any foreign country, of a decedent who has left him or her surviving a husband, wife or next of kin, may maintain an action to recover damages for a wrongful act, neglect or default, by which the decedent's death was caused, against a natural person who, or a corporation which, would have been liable to an action in favor of the decedent by reason thereof if death had not ensued. Such an action must be commenced within two years after the decedent's death. When the husband, wife or next of kin do not participate in the estate of decedent, under a will appointing an executor, other than such husband, wife or next of kin, who refuses to bring such action, then such husband, wife or next of kin shall be entitled to have an administrator appointed for the purpose of prosecuting such action for their benefit."

(b) Chapter 506 of the laws of 1943 New York State in effect April 15th, 1943, now Section 13 of the Civil Practice Act of that State, and Chapter 516 of the laws of 1943 in effect April 15th, 1943, now Section 55 of the Civil Practice Act of that State, reads as follows:

"SECT. 13. LIMITATION WHERE CAUSE OF ACTION ARISES OUTSIDE OF THE STATE.

"Where a cause of action arises outside of this State, an action cannot be brought in a court of this State to enforce such cause of action after the expiration of the time limited by the laws either of

this State or of the state or country where the cause of action arose, for bringing an action upon such cause of action, except that where the cause of action originally accrued in favor of a resident of this State, the time limited by the laws of this State shall apply."

"SECT. 55. ACTION AGAINST NON-RESIDENT: SAME LIMITATION AS AGAINST RESIDENT. Except as provided in section thirteen of this act an action upon any cause of action may be brought in a court of this state within the time limited therefor by the laws of this state, and may not be brought thereafter, and the time limited for bringing a like action by the laws of the place of residence of the person against whom the cause of action arose or by the laws of the place where the cause of action arose, shall not apply."

